

REFERENCE TITLE: end-of-life decisions; terminally ill

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2336

Introduced by
Representatives Powers Hannley: Alston, Andrade, Butler, Cardenas,
Engel, Fernandez, Friese, Gabaldón, Gonzales, Hernandez, Rubalcava,
Salman, Senators Farley, Mendez, Quezada

AN ACT

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 33;
RELATING TO END-OF-LIFE DECISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, Arizona Revised Statutes, is amended by adding
3 chapter 33, to read:

4 CHAPTER 33

5 DEATH WITH DIGNITY

6 ARTICLE 1. GENERAL PROVISIONS

7 36-3301. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY
10 SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS
11 REGARDING A PATIENT'S DISEASE.

12 2. "COUNSELING" MEANS A CONSULTATION BETWEEN A PSYCHIATRIST OR
13 PSYCHOLOGIST LICENSED BY THIS STATE AND A PATIENT FOR THE PURPOSE OF
14 DETERMINING WHETHER THE PATIENT IS SUFFERING FROM A PSYCHIATRIC OR
15 PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT.

16 3. "DEATH WITH DIGNITY" MEANS THE ISSUANCE OF A PRESCRIPTION FOR
17 MEDICATION FOR SELF-ADMINISTRATION THAT WILL TERMINATE THE LIFE OF A
18 QUALIFIED PATIENT IN A PAINLESS, HUMANE AND DIGNIFIED MANNER.

19 4. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

20 5. "INFORMED DECISION" MEANS A DECISION BY A QUALIFIED PATIENT TO
21 REQUEST AND OBTAIN A PRESCRIPTION TO END THE PATIENT'S LIFE THAT IS BASED
22 ON AN APPRECIATION OF THE RELEVANT FACTS AND THAT IS MADE AFTER BEING
23 FULLY INFORMED BY THE ATTENDING PHYSICIAN OF:

24 (a) THE PATIENT'S MEDICAL DIAGNOSIS.

25 (b) THE PATIENT'S PROGNOSIS.

26 (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
27 PRESCRIBED.

28 (d) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED.

29 (e) FEASIBLE ALTERNATIVES TO TAKING THE MEDICATION, INCLUDING
30 COMFORT CARE, HOSPICE CARE AND PAIN CONTROL.

31 6. "MEDICALLY CONFIRMED" MEANS THAT THE MEDICAL OPINION OF THE
32 ATTENDING PHYSICIAN HAS BEEN CONFIRMED BY A CONSULTING PHYSICIAN WHO HAS
33 EXAMINED THE PATIENT AND THE PATIENT'S RELEVANT MEDICAL RECORDS.

34 7. "QUALIFIED PATIENT" MEANS A CAPABLE ADULT WHO HAS RESIDED IN
35 THIS STATE FOR AT LEAST NINETY DAYS AND WHO HAS SATISFIED THE REQUIREMENTS
36 OF THIS ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION TO END THE PATIENT'S
37 LIFE.

38 8. "TERMINAL CONDITION" MEANS A CONDITION THAT RESULTS FROM AN
39 ACCIDENT OR AN INCURABLE AND IRREVERSIBLE DISEASE, THAT HAS BEEN MEDICALLY
40 CONFIRMED AND THAT WILL CAUSE DEATH, WITH REASONABLE MEDICAL JUDGMENT,
41 WITHIN SIX MONTHS.

42 36-3302. Request for medication; requirements; witnesses;
43 signatures

44 A. A QUALIFIED PATIENT MAY MAKE A WRITTEN REQUEST FOR MEDICATION TO
45 END THE PATIENT'S LIFE AS PRESCRIBED BY THIS ARTICLE.

1 B. A REQUEST FOR MEDICATION UNDER THIS ARTICLE MUST BE IN
2 SUBSTANTIALLY THE FORM DESCRIBED IN SECTION 36-3318, SIGNED AND DATED BY
3 THE PATIENT AND BE WITNESSED BY AT LEAST TWO PERSONS WHO, IN THE PRESENCE
4 OF THE PATIENT, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THE
5 PATIENT IS COMPETENT, IS ACTING VOLUNTARILY AND IS NOT BEING COERCED TO
6 SIGN THE REQUEST.

7 C. AT LEAST ONE OF THE WITNESSES MUST BE A PERSON WHO IS NOT:

8 1. A RELATIVE OF THE PATIENT BY BLOOD, MARRIAGE OR ADOPTION.

9 2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY PORTION OF
10 THE ESTATE OF THE PATIENT ON THE PATIENT'S DEATH UNDER ANY WILL OR BY
11 OPERATION OF LAW.

12 3. AN OWNER, OPERATOR OR EMPLOYEE OF A HEALTH CARE FACILITY WHERE
13 THE PATIENT IS RECEIVING MEDICAL TREATMENT OR IS A RESIDENT.

14 D. THE PATIENT'S ATTENDING PHYSICIAN AT THE TIME THE REQUEST IS
15 SIGNED MAY NOT BE A WITNESS.

16 E. NOTWITHSTANDING SUBSECTION C, PARAGRAPH 3 OF THIS SECTION, IF
17 THE PATIENT RESIDES IN A LONG-TERM CARE FACILITY AT THE TIME THE WRITTEN
18 REQUEST IS MADE, ONE OF THE WITNESSES MUST BE A PERSON WHO IS DESIGNATED
19 BY THE FACILITY AND WHO HAS THE QUALIFICATIONS SPECIFIED BY THE DEPARTMENT
20 AS PRESCRIBED BY RULE.

21 F. IF THE PATIENT IS COMPETENT BUT IS UNABLE TO WRITE OR TO SIGN A
22 STATEMENT, THE PATIENT MAY SUBSTITUTE A VIDEO RECORDING, WITNESSED BY TWO
23 QUALIFIED INDIVIDUALS, FOR THE WRITTEN REQUEST.

24 36-3303. Safeguards; attending physician; requirements

25 THE ATTENDING PHYSICIAN MUST:

26 1. MAKE THE INITIAL DETERMINATION OF WHETHER A PATIENT HAS A
27 TERMINAL CONDITION, IS COMPETENT AND HAS MADE THE REQUEST VOLUNTARILY.

28 2. INFORM THE PATIENT OF:

29 (a) THE PATIENT'S MEDICAL DIAGNOSIS.

30 (b) THE PATIENT'S PROGNOSIS.

31 (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
32 PRESCRIBED.

33 (d) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED.

34 (e) FEASIBLE ALTERNATIVES TO TAKING THE MEDICATION, INCLUDING
35 COMFORT CARE, HOSPICE CARE AND PAIN CONTROL.

36 3. REFER THE PATIENT TO A CONSULTING PHYSICIAN FOR MEDICAL
37 CONFIRMATION OF THE DIAGNOSIS AND FOR A DETERMINATION THAT THE PATIENT IS
38 COMPETENT AND IS ACTING VOLUNTARILY.

39 4. REFER THE PATIENT FOR COUNSELING IF REQUIRED PURSUANT TO SECTION
40 36-3305.

41 5. REQUEST THAT THE PATIENT NOTIFY THE PATIENT'S NEXT OF KIN.

42 6. INFORM THE PATIENT THAT THE PATIENT CAN RESCIND THE REQUEST AT
43 ANY TIME AND IN ANY MANNER AND OFFER THE PATIENT AN OPPORTUNITY TO RESCIND
44 AT THE END OF THE FIFTEEN-DAY WAITING PERIOD PRESCRIBED IN SECTION
45 36-3310.

1 7. VERIFY, IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR
2 MEDICATION, THAT THE PATIENT IS MAKING AN INFORMED DECISION.

3 8. FULFILL THE MEDICAL RECORD DOCUMENTATION REQUIREMENT OF SECTION
4 36-3311.

5 9. ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE
6 WITH THIS ARTICLE BEFORE WRITING A PRESCRIPTION FOR MEDICATION TO ENABLE
7 THE QUALIFIED PATIENT TO END THE PATIENT'S LIFE IN A HUMANE AND DIGNIFIED
8 MANNER.

9 36-3304. Consulting physician; confirmation of diagnosis

10 A. BEFORE A PATIENT IS DEEMED QUALIFIED UNDER THIS ARTICLE, A
11 CONSULTING PHYSICIAN MUST EXAMINE THE PATIENT AND THE PATIENT'S RELEVANT
12 MEDICAL RECORDS, MUST CONFIRM, IN WRITING, THE ATTENDING PHYSICIAN'S
13 DIAGNOSIS THAT THE PATIENT IS SUFFERING FROM A TERMINAL CONDITION AND MUST
14 VERIFY THAT THE PATIENT IS COMPETENT, IS ACTING VOLUNTARILY AND HAS MADE
15 AN INFORMED DECISION.

16 B. THE CONSULTING PHYSICIAN MAY NOT BE A PARTNER, SHAREHOLDER OR
17 EMPLOYEE IN THE SAME MEDICAL PRACTICE AS THE ATTENDING PHYSICIAN.

18 36-3305. Counseling referral

19 A. IF, IN THE OPINION OF THE ATTENDING PHYSICIAN OR THE CONSULTING
20 PHYSICIAN, A PATIENT MAY BE SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL
21 DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT, THE PHYSICIAN MUST REFER
22 THE PATIENT FOR COUNSELING.

23 B. A PHYSICIAN MAY NOT PRESCRIBE MEDICATION TO END A PATIENT'S LIFE
24 UNTIL THE COUNSELING PSYCHIATRIST OR PSYCHOLOGIST DETERMINES THAT THE
25 PATIENT IS NOT SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR
26 DEPRESSION CAUSING IMPAIRED JUDGMENT.

27 C. A COUNSELING PSYCHIATRIST OR PSYCHOLOGIST MAY NOT BE A PARTNER,
28 SHAREHOLDER OR EMPLOYEE IN THE SAME PRACTICE AS THE ATTENDING PHYSICIAN.

29 36-3306. Informed decision

30 A PATIENT MAY NOT RECEIVE A PRESCRIPTION FOR MEDICATION TO END THE
31 PATIENT'S LIFE UNLESS THE PATIENT HAS MADE AN INFORMED DECISION AS
32 PRESCRIBED IN SECTION 36-3923.

33 36-3307. Family notification

34 THE ATTENDING PHYSICIAN MUST ASK THE PATIENT TO NOTIFY THE PATIENT'S
35 NEXT OF KIN OF THE PATIENT'S REQUEST FOR MEDICATION PURSUANT TO THIS
36 ARTICLE. IF A PATIENT DECLINES OR IS UNABLE TO NOTIFY THE PATIENT'S NEXT
37 OF KIN, THE PHYSICIAN MAY NOT DENY A REQUEST FOR MEDICATION FOR THIS
38 REASON.

39 36-3308. Written and oral requests

40 A. IN ORDER TO RECEIVE A PRESCRIPTION FOR MEDICATION UNDER THIS
41 ARTICLE, A PATIENT MUST MAKE AN ORAL AND A WRITTEN REQUEST AND MUST
42 REITERATE THE ORAL REQUEST TO THE PATIENT'S ATTENDING PHYSICIAN AT LEAST
43 FIFTEEN DAYS AFTER MAKING THE INITIAL ORAL REQUEST.

44 B. AT THE TIME THE QUALIFIED PATIENT MAKES THE SECOND ORAL REQUEST,
45 THE ATTENDING PHYSICIAN MUST OFFER THE PATIENT AN OPPORTUNITY TO RESCIND
46 THE REQUEST.

1 36-3309. Right to rescind request

2 A PATIENT MAY RESCIND A REQUEST AT ANY TIME AND IN ANY MANNER
3 WITHOUT REGARD TO THE PATIENT'S MENTAL STATE. A PRESCRIPTION FOR
4 MEDICATION UNDER THIS ARTICLE MAY NOT BE WRITTEN WITHOUT THE ATTENDING
5 PHYSICIAN OFFERING THE QUALIFIED PATIENT AN OPPORTUNITY TO RESCIND THE
6 REQUEST. IF THE PATIENT RESCINDS THE DIRECTIVE OR REQUEST, IT MUST BE AS
7 IF THE DIRECTIVE OR REQUEST WERE NEVER MADE.

8 36-3310. Waiting periods

9 A. AT LEAST FIFTEEN DAYS MUST ELAPSE BETWEEN THE PATIENT'S INITIAL
10 ORAL REQUEST AND THE WRITING OF A PRESCRIPTION UNDER THIS ARTICLE. AT
11 LEAST FORTY-EIGHT HOURS MUST ELAPSE BETWEEN THE PATIENT'S WRITTEN REQUEST
12 AND THE WRITING OF A PRESCRIPTION UNDER THIS ARTICLE.

13 B. IF ALL OTHER REQUIREMENTS OF THIS ARTICLE ARE MET, THE WAITING
14 PERIODS PROVIDED IN THIS SECTION MAY BE SHORTENED IF THE ATTENDING
15 PHYSICIAN CERTIFIES IN WRITING THAT THE PATIENT IS IN EXTREME PAIN AND THE
16 IMPOSITION OF A WAITING PERIOD WOULD SERVE ONLY TO EXTEND THE SUFFERING OF
17 THE PATIENT.

18 36-3311. Medical records; documentation; requirements

19 THE FOLLOWING INFORMATION MUST BE DOCUMENTED OR FILED IN THE
20 PATIENT'S MEDICAL RECORD:

21 1. ALL ORAL REQUESTS BY A PATIENT FOR MEDICATION TO END THE
22 PATIENT'S LIFE.

23 2. ALL WRITTEN REQUESTS BY A PATIENT FOR MEDICATION TO END THE
24 PATIENT'S LIFE.

25 3. THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
26 VERIFICATION THAT THE PATIENT IS COMPETENT, IS ACTING VOLUNTARILY AND HAS
27 MADE AN INFORMED DECISION.

28 4. THE CONSULTING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
29 VERIFICATION THAT THE PATIENT IS COMPETENT, IS ACTING VOLUNTARILY AND HAS
30 MADE AN INFORMED DECISION.

31 5. A REPORT OF THE OUTCOME AND DETERMINATIONS MADE DURING
32 COUNSELING, IF PERFORMED.

33 6. THE ATTENDING PHYSICIAN'S OFFER TO THE PATIENT TO RESCIND THE
34 PATIENT'S REQUEST AT THE TIME OF THE PATIENT'S SECOND ORAL REQUEST
35 PURSUANT TO SECTION 36-3308.

36 7. A NOTE BY THE ATTENDING PHYSICIAN INDICATING THAT ALL
37 REQUIREMENTS UNDER THIS ARTICLE HAVE BEEN MET AND INDICATING THE STEPS
38 TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF THE MEDICATION
39 PRESCRIBED.

40 36-3312. Reporting requirements

41 A. THE DEPARTMENT SHALL ANNUALLY REVIEW A SAMPLE OF RECORDS
42 MAINTAINED PURSUANT TO THIS ARTICLE.

43 B. THE DEPARTMENT SHALL ADOPT RULES TO FACILITATE THE COLLECTION OF
44 INFORMATION REGARDING COMPLIANCE WITH THIS ARTICLE. THE INFORMATION
45 COLLECTED IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR INSPECTION BY
46 THE PUBLIC.

1 C. THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE PUBLIC
2 AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED UNDER THIS ARTICLE.

3 36-3313. Effect on construction of wills and contracts

4 A. A PROVISION IN ANY CONTRACT, WILL OR OTHER AGREEMENT, WHETHER
5 WRITTEN OR ORAL, THAT WOULD AFFECT WHETHER A PERSON MAY MAKE OR RESCIND A
6 REQUEST FOR MEDICATION TO END THE PATIENT'S LIFE IN A HUMANE AND DIGNIFIED
7 MANNER IS NOT VALID.

8 B. AN OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT MAY
9 NOT BE CONDITIONED ON OR AFFECTED BY A PERSON MAKING OR RESCINDING A
10 REQUEST FOR MEDICATION TO END THE PERSON'S LIFE IN A HUMANE AND DIGNIFIED
11 MANNER.

12 36-3314. Insurance or annuity policies

13 A. THE SALE, PROCUREMENT OR ISSUANCE OF ANY LIFE, HEALTH OR
14 ACCIDENT INSURANCE OR ANNUITY POLICY OR THE RATE CHARGED FOR ANY POLICY
15 MAY NOT BE CONDITIONED ON OR AFFECTED BY A PERSON MAKING OR RESCINDING A
16 REQUEST FOR MEDICATION TO END THE PERSON'S LIFE IN A HUMANE AND DIGNIFIED
17 MANNER.

18 B. AN INSURER MAY NOT REQUIRE OR REQUEST AN INSURED TO DISCLOSE
19 WHETHER THE INSURED HAS CONSIDERED OR EXECUTED A REQUEST FOR DEATH WITH
20 DIGNITY.

21 C. A QUALIFIED PATIENT'S ACT OF INGESTING MEDICATION TO END THE
22 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER DOES NOT AFFECT A LIFE,
23 HEALTH OR ACCIDENT INSURANCE OR ANNUITY POLICY.

24 36-3315. Construction of article

25 THIS ARTICLE DOES NOT AUTHORIZE A PHYSICIAN OR ANY OTHER PERSON TO
26 END A PATIENT'S LIFE BY LETHAL INJECTION, MERCY KILLING OR ACTIVE
27 EUTHANASIA. NOTWITHSTANDING ANY OTHER LAW, ACTIONS TAKEN IN ACCORDANCE
28 WITH THIS ARTICLE DO NOT CONSTITUTE, FOR ANY PURPOSE, SUICIDE, ASSISTED
29 SUICIDE, MERCY KILLING OR HOMICIDE.

30 36-3316. Immunities

31 EXCEPT AS PROVIDED IN SECTION 36-3317:

32 1. A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR
33 PROFESSIONAL DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD FAITH
34 COMPLIANCE WITH THIS ARTICLE, INCLUDING BEING PRESENT WHEN A QUALIFIED
35 PATIENT TAKES THE PRESCRIBED MEDICATION TO END THE PATIENT'S LIFE IN A
36 HUMANE AND DIGNIFIED MANNER.

37 2. THIS ARTICLE DOES NOT AUTHORIZE ANY PERSON TO ASSIST IN THE
38 ADMINISTRATION OF MEDICATION UNLESS THAT PERSON IS DESIGNATED BY A
39 QUALIFIED PATIENT TO ADMINISTER OR DISPENSE THE MEDICATION BECAUSE OF THE
40 QUALIFIED PATIENT'S PHYSICAL DISABILITY.

41 3. A PROFESSIONAL ORGANIZATION OR ASSOCIATION OR HEALTH CARE
42 PROVIDER MAY NOT SUBJECT A PERSON TO CENSURE, DISCIPLINE, SUSPENSION, LOSS
43 OF PRIVILEGES, LOSS OF MEMBERSHIP OR ANY OTHER PENALTY FOR PARTICIPATING
44 OR REFUSING TO PARTICIPATE IN GOOD FAITH COMPLIANCE WITH THIS ARTICLE.

1 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY
2 PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED AND
3 POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT AND THE
4 FEASIBLE ALTERNATIVES, INCLUDING COMFORT CARE, HOSPICE CARE
5 AND PAIN CONTROL.

6 I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE
7 MEDICATION THAT WILL END MY LIFE IN A HUMANE AND DIGNIFIED
8 MANNER.

9 INITIAL ONE:

10 _____ I HAVE INFORMED MY FAMILY MEMBERS OF MY DECISION AND
11 HAVE TAKEN THEIR OPINIONS INTO CONSIDERATION.

12 _____ I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY DECISION.

13 _____ I HAVE NO FAMILY TO INFORM OF MY DECISION.

14 I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS
15 REQUEST AT ANY TIME.

16 I UNDERSTAND THE FULL IMPORT OF THIS REQUEST, AND I
17 EXPECT TO DIE WHEN I TAKE THE MEDICATION TO BE PRESCRIBED.

18 I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION,
19 AND I ACCEPT FULL MORAL RESPONSIBILITY FOR MY ACTIONS.

20 SIGNED: _____

21 DATED: _____

22 DECLARATION OF WITNESSES

23 WE DECLARE THAT THE PERSON SIGNING THIS REQUEST:

24 1. IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF
25 IDENTITY.

26 2. SIGNED THIS REQUEST IN OUR PRESENCE.

27 3. APPEARS TO BE OF SOUND MIND AND TO NOT BE UNDER
28 DURESS, FRAUD OR UNDUE INFLUENCE.

29 4. IS NOT A PATIENT FOR WHOM EITHER OF US IS THE
30 ATTENDING PHYSICIAN.

31 WITNESS 1 _____

32 DATE _____

33 WITNESS 2 _____

34 DATE _____

35 NOTE: ONE WITNESS MAY NOT BE A RELATIVE (BY BLOOD,
36 MARRIAGE OR ADOPTION) OF THE PERSON SIGNING THIS REQUEST, MAY
37 NOT BE ENTITLED TO ANY PORTION OF THE PERSON'S ESTATE ON DEATH
38 AND MAY NOT OWN, OPERATE OR BE EMPLOYED AT A HEALTH CARE
39 FACILITY WHERE THE PERSON IS A PATIENT OR RESIDENT. IF THE
40 PATIENT IS AN INPATIENT AT A HEALTH CARE FACILITY, ONE OF THE
41 WITNESSES MUST BE AN INDIVIDUAL DESIGNATED BY THE FACILITY.

42 Sec. 2. Short title

43 This act may be cited as the "Death with Dignity Act of 2017".